

# Order

Michigan Supreme Court  
Lansing, Michigan

November 29, 2006

Clifford W. Taylor,  
Chief Justice

131948

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 131948  
COA: 270554  
Kent CC: 04-009132-FC  
04-008989-FC

JEFFREY SCOTT PENA,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 10, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the defendant's safe breaking sentence, and we REMAND this case to the Kent Circuit Court for resentencing on that conviction. On remand, the trial court shall sentence the defendant within the appropriate sentencing guidelines range for the safe breaking conviction, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range in accordance with *People v Babcock*, 469 Mich 247 (2003). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 29, 2006

*Corbin R. Davis*

Clerk